IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 892 of 2003
in
SPECIAL CIVIL APPLICATION No 5448 of 1999
with
CIVIL APPLICATION No 5502 of 2003
with
LETTERS PATENT APPEAL No 893 of 2003
with
CIVIL APPLICATION No 5498 of 2003
with
LETTERS PATENT APPEAL No 895 of 2003
with
CIVIL APPLICATION No 5504 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

GIRISHKUMAR MANSUKHLAL VORA

Appearance:

1. LETTERS PATENT APPEAL No. 892 of 2003
MR AJ DESAI, AGP for Appellants
MR RM CHHAYA for the Respondents

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 16/12/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.K.ABICHANDANI)

#. All the three appeals are admitted. The learned counsel for the respondent in each of them waives service of notice. Both the learned counsel have prayed for taking up the matters for final hearing in view of the question involved. We have, therefore, heard them in these matters.

#. These appeals are directed against the orders of the Tribunal, remanding the cases to the Competent Authority on the ground that no proper hearing was afforded to the respondents. When the remand is made in all these matters on the ground that hearing was not given, and opportunity is given to them to have their say in the matters, in our opinion, the learned Single Judge was justified in not interfering with such remand orders of the Tribunal.

#. The learned Assistant Government Pleader pointed out from para-13 of the judgment that the Single Judge has held that in view of the U.L.C. Repeal Act, there was no authority available to examine the said issue and, therefore also, the three petitions were not maintainable. Admittedly, there is a Competent Authority available dealing with such matters and, therefore, the observation in para-13 giving an additional ground for not entertaining the petitions was not called for. The remand orders of the Tribunal, therefore, stand and the parties can take up their contentions before the Competent Authority which will decide the matter without being influenced by any observation made in para-13 of the judgment of the learned Single Judge. Subject to this modification in the order of the learned Single Judge, all the three appeals are dismissed with no order as to costs. Civil Applications stand rejected in view of the above order.

[R.K. ABICHANDANI, J.]

[D.A. MEHTA, J.]
pirzada/-